

REMARKS

This responds to the Final Office Action dated May 12, 2009.

Claims 1, 9, 11, 22, and 29 are amended, no claims are canceled, and no claims are added; as a result, claims 1, 9-12, and 15-29 remain pending in this application. Support for claim amendments can be found in the specification at least on page 3, line 10.

§ 102 Rejection of the Claims

Claims 1, 9, 21-22 and 28-29 were rejected under 35 U.S.C. § 102(e) as being anticipated by Philyaw et al. (U.S. Patent No. 6,098,106).

Philyaw proposes embedding a URL of an Advertiser Reference Server (ARS) into a broadcasted program. (Philyaw, 2: 1-3.) A special trigger signal located within the transmitted advertiser audio signal triggers proprietary software running on the viewer's computer, which launches a web browser. Coded advertiser information contained within the audio signal is extracted and transmitted to ARS that, in turn, cross-references the advertiser product information to the address of the associated advertiser server that has access to advertiser product information and sends the product information to the viewers' computer. (Philyaw, 5: 8-23.) A message packet used to send the advertiser information (i.e., advertiser product code) to ARS is shown in Figure 4a and includes the product code, the URL of ARS and the URL of the viewer's computer, but does not include any media objects or portions of media objects in general or any content that can be played by a client system. In contrast, claim 1, as amended, recites "a portion of the content item the content item that can be played by a client system." Because the message transmitted to ARS is not a portion of the content item the content item that can be played by a client system, Philyaw fails to disclose the above-quoted operation recited in claim 1.

Claim 1 also recites "determining that the portion of the content item [received at the server system] is not accompanied by an identifier suitable for interrogating a database to determine further information associated with the content item." The message received at ARS, however, contains advertiser product information (the product code) that is used to interrogate the ARS database in order to determine the URL of the relevant advertiser product. (Philyaw, 5:

50-60, and Fig. 4a.) In the "Response to arguments" section, on page 3 of the Detailed Description, the Office Action states that a message in Philyaw includes several fields, some of which are not used for interrogating product information in a database. While not every field in a message in Philyaw is used for interrogating a product information in a database, the fact that at least one field in the message contains an identifier that is used to interrogate the ARS database (see Philyaw, 8: 33-39) means that Philyaw fails to disclose "determining that the portion of the content item is not accompanied by an identifier suitable for interrogating a database." Because in Philyaw the message received at ARS is accompanied by the product code that is then used to interrogate a database, Philyaw fails to disclose "determining that the portion of the content item [received at the server system] is not accompanied by an identifier suitable for interrogating a database to determine further information associated with the content item" recited in claim 1.

Because Philyaw does not disclose all features of claim 1, claim 1 and its dependent claims are patentable and should be allowed. It is respectfully requested that the rejection be withdrawn.

Claims 9, 11, 22, and their respective dependent claims are patentable in view of Philyaw for at least the reasons articulated with respect to claim 1. It is respectfully requested that the rejections be withdrawn.

It is submitted that the rejection of claim 29 under 35 U.S.C. § 102(e) is improper because the Office Action discusses the elements of claim 29 not with respect to a single reference, but in view of Philyaw and also in view of Levy. It is respectfully requested that he rejection be withdrawn.

§ 103 Rejection of the Claims

Claims 10, 15-19 and 23-26 were rejected under 35 U.S.C. § 103(a) as being obvious over Philyaw et al. (U.S. Patent No. 6,098,106) in view of Herz et al. (U.S. Patent Application Publication No. 2001/0014868).

Claims 15-19 include the feature of "determining that the portion of the content item is not accompanied by an identifier suitable for interrogating a database to determine further information associated with the content item" by virtue of their being dependent on claim 1. Hertz, related to system for the automatic determination of customized prices and promotions (Hertz, Title), whether considered separately or in combination with Philyaw, fails to disclose or suggest this feature. Thus, claims 15-19 are patentable in view of the Philyaw and Hertz combination and should be allowed.

Claims 10 and 23-26 include a processor to "determine that the portion of the content item is not accompanied by an identifier suitable for interrogating a database to determine further information associated with the content item." by virtue of their being dependent on claim 9. Hertz, whether considered separately or in combination with Philyaw, fails to disclose or suggest this feature. Thus, claims 10 and 23-26 are patentable in view of the Philyaw and Hertz combination and should be allowed.

Claims 11-12 were rejected under 35 U.S.C. § 103(a) as being obvious over Philyaw et al. (U.S. Patent No. 6,098,106) in view of Levy (U.S. Patent No. 6,505,160) and further in view of Herz et al. (U.S. Patent Application Publication No. 2001/0014868).

Claim 11 recites "determining that the media object is not accompanied by an identifier suitable for interrogating a database to determine further information associated with the media object." As discussed above, in Philyaw, the message received at ARS is accompanied by the product code that is then used to interrogate a database. Thus, Philyaw fails to disclose this feature recited in claim 11. Levy discusses transforming media objects into active, connected objects via identifiers embedded into them or their containers (Levy, Abstract) whether considered separately or in combination with Philyaw, does not remedy this deficiency of Philyaw. Hertz, related to system for the automatic determination of customized prices and promotions (Hertz, Title), whether considered separately or in combination with Philyaw and Levy also fails to disclose or suggest this feature. Because Philyaw/Levy/Hertz combination fails to disclose or suggest all features of claim 11, claim 11 and its dependent claim 12 are patentable in view of Philyaw/Levy/Hertz combination and should be allowed.

Claims 20 and 27 were rejected under 35 U.S.C. § 103(a) as being obvious over Philyaw et al. (U.S. Patent No. 6,098,106) in view of Herz et al. (U.S. Patent Application Publication No. 2001/0014868).

Claim 20 includes the feature of "determining that the portion of the content item is not accompanied by an identifier suitable for interrogating a database to determine further information associated with the content item" by virtue of its being dependent on claim 1. Herz, whether considered separately or in combination with Philyaw, fails to disclose or suggest this feature. Thus, claim 20 is patentable in view of the Philyaw and Herz combination and should be allowed.

Claim 27 includes a processor to "determine that the portion of the content item is not accompanied by an identifier suitable for interrogating a database to determine further information associated with the content item" by virtue of its being dependent on claim 9. Herz, whether considered separately or in combination with Philyaw, fails to disclose or suggest this feature. Thus, claim 27 is patentable in view of the Philyaw and Herz combination and should be allowed.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (408) 278-4052 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402--0938
(408) 278-4052

Date September 14, 2009 By /Elena Dreszer/
Elena B. Dreszer
Reg. No. 55,128

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 14 day of September, 2009.

John D. Gustav-Wrathall
Name Signature

